

# **LEGAL SEPARATION WITHOUT MINOR CHILDREN For Petitioner Only**

# **1**

## **To File for Legal Separation**

**Part 1: Petition and First Court Papers  
(Instructions Packet)**

**SELF-SERVICE CENTER**

**TO FILE FOR LEGAL SEPARATION WITHOUT MINOR CHILDREN**

**Part 1: Petition and First Court Papers  
(Instructions Only)**

This packet contains court forms and instructions to file for legal separation without minor children. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

Order	File Number	Title	No. Pp.
1	DRLSA1it	Table of instructions in this packet	1
2	DRLSA10i	Instructions: How to fill out <i>the “<b>Petition for Legal Separation -- Without Minor Children</b>”</i>	5
3	DRLSA10p	Procedures: How to file the <i>“<b>Petition for Legal Separation -- Without Minor Children</b>”</i> with the court.	1

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## SELF-SERVICE CENTER

# INSTRUCTIONS: HOW TO FILL OUT LEGAL SEPARATION WITHOUT MINOR CHILDREN

**IMPORTANT INFORMATION:** If your spouse does not want a Legal Separation, the Court will not order a legal separation. However, the Court can change the Petition for Legal Separation into a Petition for Dissolution of Marriage (divorce), if you and/or your spouse have lived in Arizona for the last 90 days prior to filing the Petition for Legal Separation and your spouse wants a divorce and not a legal separation.

**DOMESTIC VIOLENCE:** Domestic violence can be part of any marriage. Domestic violence includes physical violence directed against you or your children, such as hitting, slapping, pushing, or kicking. Domestic violence includes threats of physical violence against you and your children, or verbal abuse used to control you.

Court documents request your address and phone number. If you are a victim of domestic violence, and you do not want your address to be known to protect yourself or your children from further violence, **you must file a Petition for an Order of Protection and ask that your address not be disclosed on court papers. With that Order, you do not need to put your address and phone number on your court papers.** Instead, write "protected" in the space where the Court asks you for this information. You must tell the Clerk of the Court your address and phone number as soon as possible so that the Court can get in contact with you.

## FAMILY COURT COVERSHEET:

**Print or type in black ink.**

**Information About the Petitioner:** Write in your name, address, home telephone number, work telephone number, cell phone/pager number, date of birth, and e-mail address in the space provided. If your address and telephone numbers are protected, you do not need to fill in this information. However, you must let the Clerk of the Court know how to reach you. If a lawyer represents you, the Petitioner, you must also write in the lawyer's name and bar number.

**Information about the other party, the Respondent:** Write in the name of the Respondent. If you know the Respondent's address, home telephone number, work telephone number, cell phone/pager number, date of birth, and e-mail address, you must write in this information.

**Other court cases:** Check the appropriate box to tell this court if either you or your spouse has been involved in any other cases, except a minor traffic offense, in any other court. If you check the Yes box, please describe the case, including case numbers and court location.

**Domestic Violence Section:** Answer the questions listed regarding domestic violence. This information will help court staff determine if this issue is relevant to this case.

**Location:** Check the appropriate box next to the facility where you are filing your papers, downtown Phoenix, Northeast Phoenix, Mesa or Surprise.

## SUMMONS:

### STEP INSTRUCTION

1. Fill in the following information on the Summons: Your name; street address (if not protected); city, state and zip code; telephone number; ATLAS number (You will have an ATLAS number ONLY if you receive or have received AFDC or other public benefits for your children that are common to you and your spouse); name of Petitioner (your name); name of Respondent (your spouse's name). Then, write in the Name of the Respondent/Defendant in the space provided. DO NOT fill out the rest of the form. The Clerk of Court will complete it later.

## PRELIMINARY INJUNCTION:

### STEP INSTRUCTION

1. Fill in the following information on the Preliminary Injunction: Your name; street address (if not protected); city; state; zip code; telephone number; ATLAS number (You will have an ATLAS number ONLY if you receive or have received AFDC or other public benefits for your children that are common to you and your spouse); name of Petitioner (your name); name of Respondent (your spouse's name). Then, fill in the description of the parties including name, gender, height, weight, driver's license number, and date of birth for both you and the other party. The Clerk of the Court will date and sign the Preliminary Injunction.

## PETITION FOR LEGAL SEPARATION WITHOUT MINOR CHILDREN:

### STEP INSTRUCTION

1. Use this form ONLY if you want a legal separation and there are no minor children involved who are common to you and your spouse. Make sure your form is titled **PETITION FOR LEGAL SEPARATION WITHOUT MINOR CHILDREN**.
2. In the top left corner of the first page, fill out the following: your name (if you are the person filling out the petition); your address (if not protected); your city, state and zip code; your telephone number; and your **ATLAS** number, if you are receiving or have received AFDC from the Arizona Department of Economic Security. (The space for the attorney bar number is for your attorney's bar number if you are represented by an attorney.)
3. Fill in **your** name in the space that says "Name of Petitioner." Remember, you will be the **PETITIONER** through the whole case. (This includes any emergency petitions, temporary petitions, and divorce petitions.) In the space that says "Name of Respondent," fill in the name of your spouse. Your spouse will be the **RESPONDENT** for the rest of this case. (This includes any emergency petitions, temporary petitions, and divorce petitions.)
4. Leave the Case Number \_\_\_\_\_ blank. When you file your papers, you will receive a case number.

## GENERAL INFORMATION:

1. **Information about you, the Petitioner.** Fill in your name, address (if not protected), date of birth, occupation, and length of time in Arizona.
2. **Information about your spouse, the Respondent.** Fill in your spouse's name, address, (if you know it) date of birth, occupation, and length of time in Arizona.
3. **Information about your marriage.** Fill in the date that you were married, and the city and state or country where you were married. If you do not know this information, and you were married in Maricopa County, you may get a copy of your marriage license from the Clerk of the Court at 601 West Jackson in Downtown Phoenix. If you were married in another county in Arizona, go to the Clerk of the Superior Court at the county seat where you were married.
4. **Residency requirements.** This tells the Court that you OR your spouse have lived in Arizona, or been stationed in Arizona while in the Armed Forces, prior to the day you filed the Petition for Legal Separation. Before you file for Legal Separation, this **MUST** be true. **IF IT IS NOT TRUE, YOU CANNOT FILE FOR LEGAL SEPARATION**
5. **Desire to live separate and apart.** Your marriage must be irretrievably broken (over) or you and/or your spouse must desire to live separate and apart. If this is not a true statement, you cannot file for Legal Separation.

6. **Pregnancy.** This tells the court that wife is not pregnant. If wife is pregnant with your child, you must file Petition for Legal Separation with Minor Children.

7. **Spousal maintenance/support** is the term used to describe money paid from one spouse to the other spouse as part of a divorce, annulment, or legal separation. You may know the term as alimony. Spousal maintenance/support is designed as a safety net for a spouse who cannot provide for his or her needs or who meets other requirements listed on the Petition under paragraph 7. The idea behind spousal maintenance/support is that accomplishments during your marriage, including increases in earning potential and living standards, are shared and earned by **BOTH** parties to a marriage. Look at paragraph 7 to see if spousal maintenance/support applies to you or your spouse. If spousal maintenance/support applies, check the box that most applies to you. If none of the boxes apply, or you do not want spousal maintenance/support, check the first box that says neither party is entitled to spousal maintenance/support. Check as many boxes as apply to your situation.

**INFORMATION ABOUT PROPERTY AND DEBT:** The information you give in paragraphs 8 and 9 tells the Court about your property and debts, and how you think your property and debts should be divided. Community property is generally any property you and your spouse purchased during your marriage or paid for during the marriage, no matter who uses the property or who paid the money. Unless property was a gift or inheritance, all property gotten (acquired) during the marriage is community property, and both you and your spouse are entitled to roughly an equal share of this property. Community debts or bills are generally any debt you and your spouse acquired during your marriage, no matter who spent the money. If you have questions, or have a lot of community property or debt, you should speak with an attorney **BEFORE** filing your Petition and other papers.

You should also know that the Judge will order that the community property rights and liabilities acquired by marriage end as to all property, income, debts, liabilities received or incurred after the entry of a decree of legal separation, unless both parties agree to the contrary.

8(a) **Property acquired during the marriage. Community property.** If you and your spouse do not have any property from the marriage, check the first box. If you and your spouse have property together, check the second box. If you checked the second box, you must tell the Court what property should go to you and what property should go to your spouse. Generally, the Court will divide the property 50-50, unless there are good reasons not to. It is unlikely that the Court will give most or all of the property to either spouse, so put some thought into what you think would be a fair division before answering this question. Usually, if you and your spouse cannot decide which spouse should receive the property, the Court will order that the property be sold and any money received divided between you and your spouse.

First, list the property that you want the Court to award to you, the Petitioner and list the property that you want the Court to award to your spouse, the Respondent. Put a check in the box that matches the property you want to go to which person. You should describe the property thoroughly for identification purposes. You can use the brand name and model where applicable, and serial numbers.

**Types of property:**

- a) **Real Property (property or home).** Check who you want to get the property. You can ask the Court to give you the home, to give the home to your spouse, or to sell the home and divide the proceeds. You should write the complete address of the property under "Real estate located at." Most property has a legal description such as "LOT 77, PINE TREE ACRES, according to Book 111 of Maps," which appears on your deed papers. You should use this description. A cemetery plot is considered real property.
- b) **Household furniture.** This includes sofas, beds, tables, and so forth.
- c) **Household furnishings.** This includes things in the house other than furniture, for example: dishes, small appliances, rugs, and so forth.

- d) **Other.** List things that you want or your want your spouse to have that have not already been listed.
- e) **Pension/retirement fund/profit sharing/stock plans/401K.** You and your spouse each generally have a right to a one-half interest in the other spouse's plan, for the number of years you were married. The longer the marriage, the greater your financial interest in your spouse's plan. (Your interest, usually, includes up to 50 percent of the benefits/plan if you have been married the whole time the plan has existed.) Check this box if you want to divide your interest in a retirement or profit sharing/retirement/401K plan. If you check this box, you must see an attorney about a document called a Qualified Domestic Relations Order or QDRO. A QDRO is a very specialized legal document that requires professional assistance to prepare. The Self-Service Center and the Court **do not** have Qualified Domestic Relations Order forms.
- f) **Motor vehicles.** List the vehicle identification number, the year and make of the car (Ford, Honda) and the model (Mustang, Lumina).

**8(b) Property acquired before marriage. Separate property.** If you did not have or bring any property into the marriage, check the first box. If your spouse did not have or bring any property into the marriage, check the next box. If you or your spouse brought property into the marriage, check the third and/or fourth box. If you checked the third and/or fourth box, you must tell the Court what property you brought into the marriage and what property your spouse brought into the marriage. List the property that you want the Court to award to you, the Petitioner and list the property that you want the Court to award to your spouse, the Respondent. Put a check in the box that matches the property you want to go to which person. You should describe the property thoroughly for identification purposes. You can use the brand name and model where applicable, and serial numbers.

**9(a) Debts incurred during the marriage.** If you and your spouse do not owe money on any debts from the marriage, check the first box and go directly to paragraph 9(b). If you and your spouse owe money on any debts from the marriage, check the second box. If you check the second box, tell the Court which debts you should pay and which debts your spouse should pay. Generally, the Court will attempt to make a fair division of the debts. If you get the property that money is owed on, you probably will be given the debt. Ordering one person to pay all the debt is unusual. Think about what is a fair division of the debts before answering this question. Put enough information to identify each debt.

If you and your spouse have been separated and have acquired new debts on your own before filing for legal separation, you may want the Court to order that each of you pay for any new debt after the date you separated. You can make this request on the last page of your Petition under Letter D ACommunity Debts."

**9(b) Separate debts. Debts incurred prior to marriage.** If you and your spouse did not owe money on any debts before you were married, check the first box and GO ON to number 10. If you owed money on debts before you were married, check the second box. If your spouse owed money on debts before you were married, check the third box. If either you or your spouse owe money on any debts you or your spouse brought into the marriage, describe the debts, and tell the Court which debts you should pay and which debts your spouse should pay.

**10. Tax Returns:** Decide what you want to do about any income tax refund and how you want to pay your taxes in the future. If you have questions, you should see a lawyer, an accountant, and/or contact the Internal Revenue Service (IRS).

**11. Written Agreement.** Check this box **ONLY** if you and your spouse have a written agreement regarding spousal maintenance and division of property/debt that **both you and your spouse signed BEFORE** you filed the Petition for Legal Separation. If you have only discussed these issues and do not have a written agreement, do **NOT** check this box.

- 12. Conciliation Requirements.** The conciliation requirements do not apply or have been met. This means that you do not think free marriage counseling through the Court will help you get back with your spouse. If you think free marriage counseling may help you, look at the Self-Service Packet called Conciliation Service (free marriage counseling).

**REQUESTS TO THE COURT.** This section requests that the Court grant you and your spouse a legal separation and tells the Court other requests you are making:

- A Legal separation.** This is your request to legally separate the parties. If you have questions about the advantages and/or disadvantages of filing for legal separation as compared to divorce, you should see a lawyer for help.
- B Spousal maintenance.** This tells the Court that you or your spouse should pay money to the other spouse on a monthly basis to help with living expenses. Check the first box if neither you nor your spouse are going to pay spousal maintenance. Check the second box if either you or your spouse will be paying spousal maintenance, and then check the box to say who will be paying spousal maintenance. You can check a box only if you checked the same box in the spousal maintenance section, paragraph 7. If you request spousal maintenance, choose what you believe to be a reasonable monthly amount and tell the Court how long the money should be paid. Base the amount of any request on the receiving party's need and the income of the spouse paying this money. If you have questions about spousal maintenance, see a lawyer for help.
- C Community property.** This tells the Court that your division of the property is fair, and that the Court should divide the property as requested by you in your Petition.
- D Community debt.** This tells the Court that your division of the debt is fair, and that the Court should divide the debts as requested by you in your Petition. **If you have been separated from your spouse for enough time that you or your spouse may have additional debts, write the date of separation on the line provided if you want each spouse to pay the debts acquired after you separated.**
- E Separate property.** This states that you will keep the property you owned before the marriage and that your spouse will keep the property he or she owned before the marriage.
- F Other Orders:** Tell the Court anything else you may want ordered that has not been covered in your Petition.

**OATH AND VERIFICATION OF PETITIONER:** Sign this form in front of a notary public. By doing so, you are telling the Court that everything contained in the Petition for Legal Separation is true.

**NOTICE REGARDING CREDITORS:** This is an important document that tells you and your spouse that you are responsible for community debts to creditors even though the Court order or decree says that only one of you (either you or your spouse) are responsible. This notice must be served on your spouse. In addition, read this notice to find out how to obtain information from your creditors about account balances.

**NEXT STEP:** After you fill out all of the forms in this packet, read the form called Procedures: How to File Legal Separation without Minor Children Papers with the Court.

## SELF-SERVICE CENTER

### PROCEDURES: HOW TO FILE LEGAL SEPARATION WITHOUT MINOR CHILDREN PAPERS WITH THE COURT

#### STEP 1: Complete the *"Family Court / Sensitive Data Coversheet"*.

Do not copy this document.

Make **2** copies of the following documents after you have filled them out:

- *"Summons"*
- *"Preliminary Injunction"*
- *"Petition for Legal Separation Without Minor Children"*
- *"Notice Regarding Creditors"*

#### STEP 2: SEPARATE YOUR DOCUMENTS INTO THREE (3) SETS:

<b>SET 1 - ORIGINALS:</b> <ul style="list-style-type: none"><li>• <i>"Family Court / Sensitive Data Coversheet"</i></li><li>• <i>"Summons"</i></li><li>• <i>"Preliminary Injunction"</i></li><li>• <i>"Petition for Legal Separation Without Minor Children"</i></li><li>• <i>"Notice Regarding Creditors"</i></li></ul>	<b>SET 2 - COPIES FOR SPOUSE:</b> <ul style="list-style-type: none"><li>• <i>"Summons"</i></li><li>• <i>"Preliminary Injunction"</i></li><li>• <i>"Petition for Legal Separation Without Minor Children"</i></li><li>• <i>"Notice Regarding Creditors"</i></li></ul> <b>SET 3 - YOUR COPIES:</b> <ul style="list-style-type: none"><li>• <i>"Summons"</i></li><li>• <i>"Preliminary Injunction"</i></li><li>• <i>"Petition for Legal Separation Without Minor Children"</i></li><li>• <i>"Notice Regarding Creditors"</i></li></ul>
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#### STEP 3: FILE THE PAPERS AT THE COURT:

**GO TO: THE COURT TO FILE YOUR PAPERS:** The court is open from 8 a.m.-5 p.m., Monday - Friday. **You should go to the court at least two hours before it closes.** You may file your court papers at the following Superior Court locations:

Clerk of the Superior Court  
**CENTRAL COURT BUILDING**  
201 West Jefferson, 1st floor  
Phoenix, Arizona 85003

OR

Clerk of the Superior Court  
**SOUTHEAST COURT FACILITY**  
222 East Javelina Avenue, 1st floor  
Mesa, Arizona 85210

The Clerk of Superior Court  
**NORTHEAST COURT FACILITY**  
18380 North 40<sup>th</sup> Street  
Phoenix, Arizona 85032

OR

Clerk of Superior Court  
**NORTHWEST COURT FACILITY**  
14264 West Tierra Buena Lane  
Surprise, Arizona 85374

**FILE:** Go to the Clerk of the Court filing counter.

**FEES:** A list of current fees is available from the Self Service Center and from the Clerk of Court's website.

If you cannot afford the filing fee and/or the fee for having the papers served by the Sheriff or by publication, you may request a deferral (payment plan) when you file your papers with the Clerk of the Court. Deferral Applications are available at no charge from the Self-Service Center.

**PAPERS:** Hand all three (3) sets of your court papers to the Clerk along with correct filing fee.

**MAKE SURE YOU GET BACK THE FOLLOWING FROM THE CLERK:**

- Your Set of Copies
- Your Spouse's Set of Copies

**STEP 4:** Read the packet called "Service of Court Papers" that applies to your situation at the Self-Service Center to find out how to serve the other party.